

In re Application of: Zeev GLOZMAN et al
Serial No.: 10/647,796
Filed: August 26, 2003
Office Action Mailing Date: April 17, 2008

Examiner: Herng Der DAY
Group Art Unit: 2128
Attorney Docket: 32965

REMARKS

The application now comprises claims 1-16, 18-39, and 41-49, of which claims 1 and 23 are in independent form.

All claims were rejected under 35 USC 103. Claims 1, 14, 16, 20, 23, 39 and 43 are currently amended.

Drawings

All drawing sheets are in compliance with 37 C.F.R. §1.121(d).

The text of Fig. 1 has been made more legible.

Claim Objections

Independent Claim 1 now ends in a period.

Claim Rejections – 35 U.S.C. §112

The new rejections against claims 16, 20, 39 and 43 are dealt with.

Claim Rejections – 35 U.S.C. 103

Examiner Herng Der Day rejected claims 1-16, 18-39, and 41-49 under 35 U.S.C. §103(a), as being rendered obvious by Krause et al. (US Patent No. 6,711,432), in view of Kenet et al. (US Patent No. 5,016,173).

Amendments to claims 1 and 23 have been entered to overcome the Examiner rejections.

Examiner is thanked for his highly pertinent comments in his response to arguments, which have helped to clarify the issues.

Krause relates to realigning bone. Krause takes slices and cuts bone in order to achieve a favorable alignment. Krause even relates to fractures. In this case he relates to longitudinal fractures where the issue is one of suitable realignment. In Column 17 lines 34 – 40 he explains that in case of a fracture he uses an external fixator to quickly stabilize the patient, then he takes an image and only *subsequently* (line 39) does he apply the present system.

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That is to say, although Krause does mention fractures in his disclosure, he does not apply his teaching to fractures. His teaching is about alignment *between bones*, not alignment *within bones*. By contrast the present teaching relates to alignment within the fractured segments of a bone, that is to say alignment *within bones*.

The present claims have been amended to teach that

“the anatomical structure comprising bones and the segmentation comprising *segmentation of the bone* to form independently movable bone part segments to represent *trauma present in said bones*;”

By contrast, Krause segments his anatomical structure into segments which are *the bones themselves*. He does not represent fracture, and his intention is to align the bones one with another.

There is no hint or suggestion in Krause to carry out segmentation to represent fracture within a bone and then to align the segments to reduce the trauma within the bone.

The features missing from Krause are not present in Kenet.

Claim 1 is believed to be allowable for the above reason.

Furthermore the combination of a fixed dimension unit and a fracture so that the fixed dimension unit can allow an estimation of the severity of the fracture is not taught by the combination of Krause and Kenet. This is because only Kenet teaches a fixed dimension unit and neither Kenet nor Krause actually image fractures. All Kenet teaches is using a fixed dimension unit to give a scale to a visually accessible surface. But fractures are not visually accessible, and are not even imaged by Krause to make them artificially visually accessible. It therefore makes no sense to photograph a visual fixed dimension unit to give a scale to a fracture that cannot be seen.

Claim 1 is believed to be further allowable for this second reason, independently of the first reason. It is believed to be allowable *a fortiori* in view of their combination.

The same amendments referred to above in respect of claim 1 have been made to claim 23, which is now believed to be allowable for each of the same reasons.

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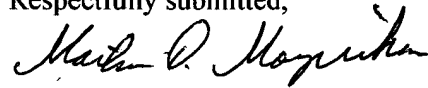
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For all of the above reasons it is thus respectfully submitted that amended claims 1 and 23 are clearly novel and inventive and thus allowable over the prior art cited. The remaining claims are believed to be allowable as being dependent on either one of claims 1 and 23.

All of the matters raised by the Examiner have been overcome.

An early Notice of Allowance is respectfully requested.

Respectfully submitted,



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Date: October 16, 2008

Enclosures:

- Petition for Extension (Three Months)
- Request for Continued Examination
- Complete Set of Formal Drawings
- Formal Drawing Transmittal Sheet